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18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**
 20 **SAN FRANCISCO DIVISION**

21 RICHARD KADREY, *et al.*,
 22 Individual and Representative Plaintiffs,
 23 v.
 24 META PLATFORMS, INC., a Delaware
 corporation;
 25
 26 Defendant.

Case No. 3:23-cv-03417-VC-TSH

**ADMINISTRATIVE MOTION TO FILE UNDER
SEAL PORTIONS OF JOINT LETTER BRIEFS
AND SUPPORTING EVIDENCE (DKTS. 352 –
357)**

1 Pursuant to Civil Local Rule 79-5, Defendant Meta Platforms, Inc. (“Meta”) moves this
 2 Court for an Order allowing Meta to file under seal confidential, unredacted versions of joint letter
 3 briefs regarding (1) Meta’s responses to Plaintiffs’ Requests for Admission (“RFA Joint Letter
 4 Brief”), (2) the crime-fraud exception (“Crime-Fraud Joint Letter Brief”), (3) Meta’s responses to
 5 Plaintiffs’ Requests for Production (“RFP Joint Letter Brief”), (4) privilege log issues relating
 6 business advice (“Business Advice Joint Letter Brief”), (5) additional deposition time (“Deposition
 7 Joint Letter Brief”), and (6) Meta’s responses to Plaintiffs’ Interrogatories (“ROG Joint Letter
 8 Brief”) (collectively, the “Joint Letter Briefs”) and certain supporting evidence submitted with the
 9 Joint Letter Briefs. Meta respectfully submits that good cause exists for the filing of these materials
 10 under seal. The motion is based on the following Memorandum of Points and Authorities and the
 11 Declaration of Kyanna Sabanoglu in support of this Administrative Motion to File Under Seal.

12 The following chart lists the documents for which Meta requests sealing – in whole or in
 13 part – in order to protect Meta’s confidential business information.

14 Document	15 Sealing Request
16 RFA Joint Letter Brief (Dkt. 352)	17 • Redacted portions
18 Exhibit A to the RFA Joint Letter Brief (Dkt. 352-1)	19 • Redacted portions
20	21
22 Crime-Fraud Joint Letter Brief (Dkt. 355)	23 • Redacted portions
24 Exhibit A to Crime-Fraud Joint Letter Brief (Dkt. 355-1)	25 • Redacted portions
26 Exhibit B to Crime-Fraud Joint Letter Brief (Dkt. 355-2)	27 • Entire document
28	29
30 RFP Joint Letter Brief (Dkt. 356)	31 • Redacted portions
32 Exhibit B to RFP Joint Letter Brief (Dkt. 356-2)	33 • Entire document
34 Exhibit C to RFP Joint Letter Brief (Dkt. 356-3)	35 • Entire document
36	37
38 Business Advice Joint Letter Brief (Dkt. 353)	39 • Redacted portions
40 Exhibit A to Business Advice Joint Letter Brief (Dkt. 353-1)	41 • Redacted portions

1	Exhibit B to Business Advice Joint Letter Brief (Dkt. 353-2)	• Redacted portions
2		
3	Deposition Joint Letter Brief (Dkt. 354)	• Redacted Portions
4	Exhibit A to Deposition Joint Letter Brief (Dkt. 354-1)	• Entire document
5	Exhibit B to Deposition Joint Letter Brief (Dkt. 354-2)	• Entire document
6	Exhibit C to Deposition Joint Letter Brief (Dkt. 354-3)	• Entire document
7	Exhibit E to Deposition Joint Letter Brief (Dkt. 354-5)	• Redacted Portions
8		
9	ROG Joint Letter Brief (Dkt. 357)	• Redacted portions
10	Exhibit A to ROG Joint Letter Brief (Dkt. 357-1)	• Redacted portions
11	Exhibit D to ROG Joint Letter Brief (Dkt. 357-4)	• Redacted portions
12		

13 A [Proposed] Order is filed concurrently herewith, and Meta refers the Court to the Joint Letter
 14 Briefs themselves and supporting evidence attached thereto as further support for this
 15 Administrative Motion.

16 **I. LEGAL ARGUMENT**

17 Though the presumption of public access to judicial proceedings and records is strong, it
 18 “is not absolute.” *Nixon v. Warner Commc’ns. Inc.*, 435 U.S. 589, 598 (1978). The Ninth Circuit
 19 treats documents “attached to dispositive motions differently from records [i.e., documents]
 20 attached to non-dispositive motions.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180
 21 (9th Cir. 2006); *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1098 (9th Cir. 2016). For
 22 non-dispositive motions, such as the Parties’ Joint Letter Briefs, the “good cause” standard applies.
 23 *OpenTV v. Apple*, No. 14-cv-01622-HSG, 2015 WL 5714851, at *2 (N.D. Cal. Sept. 17, 2015);
 24 *Kamakana*, 447 F.3d at 1180 (“A ‘good cause’ showing will suffice to seal documents produced in
 25 discovery.”). The Federal Rules afford district courts “flexibility in balancing and protecting the
 26 interests of private parties.” *Kamakana*, 447 F.3d at 1180; *DSS Tech. Mgmt. v. Apple*, No. 14-cv-
 27 05330-HSG, 2020 WL 210318, at *8 (N.D. Cal. Jan. 14, 2020), *aff’d*, 845 F. App’x 963
 28 (Fed. Cir. 2021) (finding good cause to seal “confidential business and proprietary information”).

1 Portions of the Joint Letter Briefs and corresponding supporting evidence contain Meta's
 2 confidential information, for which Meta requests sealing.

3 The redacted portions of Exhibit A to the RFA Joint Letter Brief are responses to Plaintiffs'
 4 Requests for Admission that Meta has designated "CONFIDENTIAL" under the Protective Order
 5 and refer to highly sensitive, non-public information concerning Meta's business practices
 6 surrounding its Llama models and the datasets used to train the Llama models. The redacted
 7 portions of the RFA Joint Letter Brief refer to these responses.

8 The redacted portions of the Crime-Fraud Joint Letter Brief describe, refer to, and quote
 9 from Meta witness testimony and documents produced by Meta in this case designated "HIGHLY
 10 CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Stipulated Protective Order. These
 11 documents and testimony refer to highly sensitive, non-public information concerning Meta's
 12 internal methods and procedures relating to datasets used to train its Llama models and Meta's
 13 development of its Llama models. The redacted portions of Exhibit A to the Crime-Fraud Joint
 14 Letter Brief only cover highly sensitive information in Meta's privilege log, namely Meta employee
 15 names email addresses, non-public filenames, and non-public email subject lines. Exhibit B to the
 16 Crime-Fraud Joint Letter brief are excerpts of the deposition of Meta's CEO, Mark Zuckerberg,
 17 which has been designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under
 18 the Stipulated Protective Order and discusses Meta's internal policies relating to the acquisition of
 19 data to train Meta's Llama models.

20 Exhibits B and C to the RFP Joint Letter Brief are excerpts of deposition testimony from
 21 Meta employees, marked "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." These
 22 excerpts discuss highly sensitive, confidential practices and processes surrounding training data for
 23 Meta's Llama models, including how that data was obtained, and the development of the Llama
 24 models. The redacted portions of the RFP Joint Letter Brief describe and quote from this testimony,
 25 as well as documents produced by Meta and marked "HIGHLY CONFIDENTIAL –
 26 ATTORNEYS' EYES ONLY" under the Stipulated Protective Order. These portions similarly
 27 discuss Meta's confidential practices and processes surrounding its Llama models.

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1 The redacted portions of Exhibits A and B to the Business Advice Joint Letter brief only
 2 cover highly sensitive information in Meta's privilege log, namely Meta employee names and email
 3 addresses, non-public filenames, and non-public email subject lines. The redacted portions of the
 4 Business Advice joint Letter Brief similarly only cover filenames or direct quotes from documents
 5 produced by Meta and designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

6 Exhibits A–C to the Deposition Joint Letter Brief are excerpts of deposition testimony from
 7 Meta employees, marked "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." These
 8 excerpts discuss highly sensitive, confidential practices and processes surrounding Meta's Llama
 9 models and the datasets used to train them. The redacted portions of the Deposition Joint Letter
 10 Brief describe and quote from this testimony as well as documents produced by Meta and marked
 11 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." The redacted portions of Exhibit
 12 E to the Deposition Joint Letter Brief discuss Meta's confidential agreements as well as practices
 13 and procedures concerning its Llama models and the datasets used to train them.

14 The redacted portions of Exhibit A to the ROG Joint Letter Brief are responses to Plaintiffs'
 15 Interrogatories that Meta has designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
 16 ATTORNEYS' EYES ONLY" under the Protective Order. These responses include highly
 17 sensitive details concerning Meta's business practices and business decisions relating to its Llama
 18 models, its internal development of its Llama models, and highly confidential details concerning
 19 Meta's business partnerships and agreements. The redacted portions of the ROG Joint Letter Brief
 20 refer to or describe the confidential information contained in these Interrogatory responses. The
 21 redacted portions of Exhibit D to the ROG Joint Letter Brief discuss confidential information
 22 concerning the Meta's use of certain datasets to train the Llama models.

23 Meta must request sealing of these materials, as this information is highly confidential, and
 24 Meta takes steps to carefully protect the confidentiality of information of this sort as disclosure has
 25 the potential to cause significant competitive injury to Meta. *See, e.g., Krieger v. Atheros*
Comm'ns, Inc., No. 11-CV-640-LHK, 2011 WL 2550831, at *1 (N.D. Cal. Jun. 25, 2011) (finding
 26 information regarding party's "long-term financial projections, discussions of business strategy,
 27 and competitive analyses" sealable); *Space Data Corp. v. Alphabet Inc.*, No. 16-CV-03260-BLF,
 28

1 2019 WL 285799, at *1 (N.D. Cal. Jan. 22, 2019) (finding information regarding party’s
 2 confidential and proprietary technical information, and sensitive financial information sealable).
 3 These sealing requests are critical to protect Meta’s confidential sensitive technical and competitive
 4 information.

5 The specific basis for sealing these materials is outlined in the accompanying declaration
 6 of Meta’s Associate General Counsel, Kyanna Sabanoglu. As outlined in Ms. Sabanoglu’s
 7 declaration, public disclosure of the protected information contained in the materials Meta seeks to
 8 seal would cause competitive harm to Meta. Meta’s proposed redactions and sealing requests are
 9 narrowly tailored to include only that information which would cause specific, articulable harm, as
 10 identified in Ms. Sabanoglu’s declaration. In each instance, the harm to Meta outweighs the
 11 public’s interest in disclosure. *See, e.g., In re iPhone App. Litig.*, No. 11-md-02250-LHK, 2013
 12 WL 12335013, at *2 (N.D. Cal. Nov. 25, 2013) (granting motion to seal where the defendant’s
 13 interest in “maintaining the confidentiality of information about its technology and internal business
 14 operations” outweighed that of the public in accessing such documents). To the extent the materials
 15 Meta seeks to seal include non-confidential background information, sealing of such information
 16 within the context of the Joint Letter Briefs is necessary to maintain the confidentiality of Meta’s
 17 protected information, as the discussion necessarily implies conduct by Meta which is highly
 18 sensitive, non-public, and which Meta has taken steps to keep confidential. Accordingly, this
 19 sealing request is critical to protecting Meta’s confidential sensitive technical and competitive
 20 information.

21 **II. CONCLUSION**

22 Pursuant to Civil Local Rule 79-5, as appropriate, redacted and unredacted versions of the
 23 above-listed document accompany this Administrative Motion. For the foregoing reasons, Meta
 24 respectfully requests that the Court grant the Administrative Motion to Seal.

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1 Dated: December 20, 2024

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